

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

James P. Ettel,)	Civil Action No.: 0:18-cv-00674-JMC
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Doctor Allen, (<i>Intern</i>) <i>Palmetto Retina Center</i> ,)	
)	
Defendant.)	
_____)	

Plaintiff, proceeding *pro se*, brought this action seeking relief pursuant to 42 U.S.C. § 1983. This matter is before the court for a review of the Magistrate Judge’s Report and Recommendation (“Report”) (ECF No. 44), filed on August 21, 2018, recommending that this action be dismissed *with prejudice* for lack of prosecution. The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a recitation.

The Magistrate Judge’s Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge’s recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

The parties were notified of their right to file objections. Neither party filed objections to the Magistrate Judge’s Report and Recommendation.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Instead, the court "must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

In this matter, Plaintiff brought an action seeking relief pursuant to 42 U.S.C. § 1983. In response, Defendant filed a motion for summary judgment. (ECF No. 35.) The Magistrate Judge then filed an order, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), in which the court advised Plaintiff of the dismissal and summary judgment procedures and the possible consequences if he failed to respond adequately. When Plaintiff failed to respond to Defendant's motion, the court filed a second order, giving Plaintiff an additional fourteen (14) days in which to file his response and specifically warned him that if he failed to respond, the action would be recommended for dismissal. Because Plaintiff failed to respond within the specified time period, the Magistrate Judge recommended that the action be dismissed *with prejudice* for failure to prosecute and that any pending motions (ECF No. 35) be terminated.

After a thorough and careful review of the record, the court finds the Magistrate Judge's Report provides an accurate summary of the facts and law in the instant case. The court **ACCEPTS** the Magistrate Judge's Report and Recommendation (ECF No. 44) and incorporates

it herein by reference. For the reasons set out in the Report, it is therefore **ORDERED** that this action be dismissed *with prejudice* for failure to prosecute and any pending motions be terminated.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

September 21, 2018
Columbia, South Carolina